AMENDED IN SENATE JUNE 11, 1998

AMENDED IN ASSEMBLY APRIL 30, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL No. 1807

Introduced by Assembly Member Takasugi

February 10, 1998

An act to add Sections 401.15 and 5096.3 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1807, as amended, Takasugi. Property taxation: airline property and possessory interests.

Existing property tax law provides that all property is subject to taxation at its full value, unless that property is otherwise exempted from taxation in whole or in part pursuant to either state or federal law.

This bill would, pursuant to legislative findings and declarations, require any of certain counties, if specified airlines execute a written settlement agreement or waiver, as provided, with that county, to issue specified total amounts of credits to those airlines against property taxes from the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive. This bill would also provide, for fiscal years to the 1997–98 fiscal year, inclusive, for the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive, and for the 2003–04 fiscal year, ~~with respect to any county that provides these credits against future taxes,~~ that the assessed value of certificated aircraft shall be deemed to be the amount entered on the tax roll with respect to those aircraft if certain ~~conditions~~ *assessment procedures* are ~~met~~ *followed*.

This bill would make legislative findings and declarations as to the necessity for a special statute.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $^{2}/_{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. (a) The Legislature finds and declares all of the following:~~

~~(1) As a result of both ambiguities in the law and conflicts between regulations and court decisions, one of the most difficult and contentious property tax assessment issues in recent years has been the assessment of airline property and possessory interests in publicly owned airports.~~

~~(2) These ambiguities and conflicts have given rise to litigation and appeals challenging assessments involving hundreds of millions of dollars of property tax revenues.~~

~~(3) The uncertainty created by pending litigation and appeals over the assessment of airline property and possessory interests in publicly owned airports is disruptive to both airline industry tax planning and local government and school finance.~~

~~(b) It is the intent of the Legislature in enacting this act to facilitate the resolution of disputes over the assessment of airline personal property by codifying recommendations, produced by a county and airline industry working group, that do all of the following:~~

~~(1) Establish assessment methodology for certain airline property.~~

~~(2) Clearly establish a presumption or correctness if a county assessor follows the assessment methodology set out in this act and in Assembly Bill 2318.~~

~~(3) Dispose of outstanding litigation and appeals over aircraft assessments, and of the real property rights of certificated air carriers at publicly owned airports, other than interests in terminal, cargo, hangar, or other site-specific facilities.~~

~~(4) Mitigate the financial impact of the statutory changes made by this act on local governments and schools by establishing a method by which the issuance of any prior-year refunds to litigating airlines is replaced by the provision of credits against future tax payments.~~

~~SEC. 2. Section 401.15 is added to the Revenue and Taxation Code, to read:~~

~~401.15. (a) Notwithstanding any other provision of law, for any county that provides credits in compliance with Section 5096.3, the full cash values of certificated aircraft for each fiscal year to the 1997–98 fiscal year, inclusive, are deemed to be those values enrolled by the county assessor or, in the case of a timely escape assessment upon certificated aircraft that is made on or after April 1, 1998, pursuant to Section 531, 531.3, or 531.4, the value enrolled upon that escape assessment, provided the escape assessment is made in accordance with subdivision (b).~~

~~(b) For the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive, and including any escape assessment levied on or after April 1, 1998, for any fiscal year to the 2002–03 fiscal year, inclusive, certificated aircraft shall be presumed to be assessed at full market value if all of the following conditions are met:~~

~~(1) Value is based upon original cost. In the case of aircraft purchased from the manufacturer, the original cost shall be the greater of the following:~~

~~(A) Taxpayer’s book cost computed in accordance with generally accepted accounting principles.~~

~~(B) The cost established in a sale/leaseback or assignment of purchase rights transaction that transfers the benefits and burdens of ownership to the lessor.~~

~~Under either subparagraph (A) or subparagraph (B), transportation costs, capitalized interest, and the cost of any capital additions made to the aircraft to put it into~~

~~service by the current owner, or any major modifications to change the model, to the extent not included in the taxpayer's book cost or sale/leaseback transaction, shall be included in the original cost.~~

~~(2) Original cost, including the cost of any additions, shall be adjusted from the date of the acquisition of the aircraft or the addition to the aircraft to the lien date, using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner with a maximum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to paragraph (3), in which case that minimum value may be used.~~

~~(3) For certificated aircraft of a type that has been in revenue service for eight or more years, the minimum value shall not exceed the average of the used aircraft prices shown in columns other than the "average new prices" column for used aircraft of the oldest model and type for that aircraft in the edition of the Airliner Price Guide most recently published as of the lien date. If the Airliner Price Guide ceases to be published, a guide agreed to by the airlines and the taxing counties shall be substituted.~~

~~(c) For the 2003–04 fiscal year, a certificated aircraft shall be presumed to be assessed at full market value if all of the following conditions are met:~~

~~(1) Value is based upon original cost. In the case of aircraft purchased from the manufacturer, the original cost shall be the greater of the following:~~

~~(A) Taxpayer's book cost computed in accordance with generally accepted accounting principles.~~

~~(B) Taxpayer's book cost plus one-half of the incremental difference between taxpayer's book cost and the cost established in a sale/leaseback or assignment of purchase rights transaction that transfers the benefits and burdens of ownership to the lessor.~~

~~Under either subparagraph (A) or subparagraph (B), transportation costs, capitalized interest, and the cost of any capital additions made to the aircraft to put it into~~

~~service by the current owner or any major modifications to change the model, to the extent not included in the taxpayer’s book cost or sale/leaseback transaction, shall be included in the original cost.~~

~~(2) Original cost, including the cost of additions, shall be adjusted from the date of the acquisition of the aircraft or the addition to the aircraft to the lien date, using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner with a maximum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to paragraph (3), in which case that minimum value may be used.~~

~~(3) For certificated aircraft of a type that has been in revenue service for eight or more years, the minimum value shall not exceed the average of the used aircraft prices shown in columns other than the “average new prices” column for used aircraft of the oldest model and type for that aircraft in the edition of the Airliner Price Guide most recently published as of the lien date. If the Airliner Price Guide ceases to be published, a guide agreed to by the airlines and the taxing counties shall be substituted.~~

~~(d) In order to calculate the values prescribed in subdivisions (b) and (c), the taxpayer shall furnish the county assessor with an annual property statement that includes aircraft original costs as defined in paragraph (1) of subdivision (b). In the event an air carrier fails to report original cost with respect to an aircraft of that carrier, an assessor may in that case, notwithstanding any other provision in this section, make an appropriate assessment pursuant to Section 501.~~

~~SEC. 3. Section 5096.3 is added to the Revenue and Taxation Code, to read:~~

~~5096.3. (a) To dispose of certain lawsuits and assessment appeals that have been filed, and to preclude the filing of other claims relating to the assessment, equalization, and assessability of certain possessory interests in publicly owned airports, and to aircraft~~

~~valuation and equalization, by Alaska Airlines, Inc., American Airlines, Inc., Continental Airlines, Inc., Delta Airlines, Inc., Federal Express Corporation, Northwest Airlines, Inc., Trans World Airlines, Inc., United Airlines, Inc., United Parcel Service, U.S. Airways, Inc., Wings West Airlines, Southwest Airlines, and America West Airlines, whether in their own right or as successors in interests, counties shall, subject to subdivision (e), provide credits against future taxes in the following total amounts:~~

~~Alameda~~	~~$ 4,455,110~~
~~Contra Costa~~	~~1,000~~
~~El Dorado~~	~~1,000~~
~~Fresno~~	~~264,630~~
~~Humboldt~~	~~500~~
~~Kern~~	~~33,540~~
~~Los Angeles~~	~~18,335,720~~
~~Monterey~~	~~148,560~~
~~Orange~~	~~2,916,995~~
~~Riverside~~	~~435,780~~
~~Sacramento~~	~~1,070,185~~
~~San Bernardino~~	~~1,991,405~~
~~San Diego~~	~~4,262,610~~
~~San Joaquin~~	~~1,000~~
~~San Mateo~~	~~13,544,005~~
~~Santa Barbara~~	~~167,880~~
~~Santa Clara~~	~~2,369,080~~
~~Solano~~	~~1,000~~

~~(b) There is hereby created the Section 5096.3 Airlines Industry Group, which shall consist of one representative from each of the airlines named in subdivision (a). This group shall hereafter be referred to as the "Section 5096.3 AIG," and shall have the authority to allocate among its membership the credit amounts specified in subdivision (a). A total credit amount identified in subdivision (a) shall be allowed in the relevant county in equal installments for the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive. The Section 5096.3 AIG shall,~~

~~through a designated representative, provide to each county listed in subdivision (a), no later than three business days after the effective date of this section, the detail of the allocation of the credits among the various airlines. In no event shall a credit exceed the total tax due for any individual taxpayer. In the event that any member airline ceases to operate in any county listed in subdivision (a) during the period credits are to be provided under this section, the airlines may submit revised instruction to the county, but in no event can the total credit amount for any county in any year be increased beyond the levels set forth for that county in subdivision (a).~~

~~(c) In addition to the credits provided in accordance with subdivision (a), each county shall allow a credit against an escape assessment upon certificated aircraft, levied on or after April 1, 1998, under subdivision (b) of Section 401.15 for fiscal years to the 1997–98 fiscal year, inclusive, when the escape is based upon the cost established in a sale/leaseback or assignment of purchase rights transaction. The amount of the credit shall be equal to the tax on one-half of the value increase, plus interest and penalties, due to using a sale/leaseback transaction or an assignment of purchase rights transaction.~~

~~(d) Upon enrollment of any escape assessment described in subdivision (a) of Section 401.15, the county assessor shall provide the county auditor with the information necessary to calculate the credit required by subdivision (c).~~

~~(e) No county shall be required to provide the credits specified in subdivisions (a) to (c), inclusive, unless all airlines described in subdivision (a), who have property that is assessed in that county, have all entered into a written settlement agreement or alternatively, at the request of the county, have all executed a written waiver with that county. Upon the execution of a settlement agreement or waiver by the relevant airlines described in subdivision (a) with a county listed in that subdivision, that county shall be required to provide the credits set out in this section. The agreement or waiver shall include a~~

~~waiver of all statutory and constitutional rights to challenge the valuation and equalization of certificated aircraft through the 2003–04 fiscal year, provided that the assessments are established in accordance with Section 401.15, and all statutory and constitutional rights to challenge the valuation, equalization, and assessability of possessory interest in publicly owned airports, other than an interest in terminal, cargo, hangar, or other buildings leased in whole or in part by an airline, provided that the valuations made for the 1998–99 fiscal year and each fiscal year thereafter are established in conformance with Section 107.9.~~

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Two of the most difficult and contentious property tax assessment issues in recent years have concerned the assessment of certificated aircraft and airline possessory interests, other than interests stated in a written agreement for terminal, cargo, hangar, automobile parking lots, storage and maintenance facilities and other buildings and the land thereunder leased in whole or in part by an airline.

(2) These issues have given rise to litigation and appeals challenging assessments involving hundreds of millions of dollars of property tax revenues.

(3) The uncertainty created by pending litigation and appeals over the assessment of airline property and possessory interests in publicly owned airports is disruptive to both airline industry tax planning and local government and school finance.

(b) It is the intent of the Legislature in enacting this act to facilitate resolution of the disputes over the assessment of certificated aircraft by codifying recommendations produced by a county and airline industry working group, that do all of the following:

(1) Establish valuation methodology for certificated aircraft.

(2) Clearly establish a presumption of correctness if county assessors follow the assessment methodology set out in this measure and in Assembly Bill 2318.

(3) Dispose of certain outstanding litigation and appeals over aircraft valuation.

(4) Mitigate the financial impact of this statutory change on local governments and schools by establishing a method by which the issuance of any prior year refunds to litigating airlines would be treated as credits against future tax payments.

SEC. 2. Section 401.15 is added to the Revenue and Taxation Code, to read:

401.15. (a) Notwithstanding any other provision of law, for any county that makes available the credits provided for in Section 5096.3, the full cash values of certificated aircraft for fiscal years to the 1997–98 fiscal year, inclusive, are presumed to be those values enrolled by the county assessor or, in the case of timely escape assessments upon certificated aircraft issued on or after April 1, 1998, pursuant to Sections 531, 531.3, and 531.4, the values enrolled upon those escape assessments, provided the escape assessment is made in accordance with the methodology in subdivision (b). For escape assessments for fiscal years to the 1997–98 fiscal year, inclusive, the assessor shall use the methodology and minimum and market values set by the California Assessors' Association for the applicable fiscal year in lieu of the methodology set forth in paragraph (3), (4), or (5) of subdivision (b). The assessor is not required to revise or change existing enrolled assessments that are not subject to escape assessment to reflect the methodology in this section. Nothing in this section precludes audit adjustments and offsets as set forth in Section 469 or the correction of reporting errors raised by an airline. Nothing in this section affects any presumption of correctness concerning allocation of aircraft values.

(b) (1) For the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive, and including escape assessments levied on or after April 1, 1998, for any fiscal year to the 2002–03 fiscal year, inclusive, except as otherwise provided in subdivision (a), for any county described in subdivision (a), certificated aircraft shall be presumed to be valued

at full market value if all of the following conditions are met:

(A) Except as provided in subparagraph (D), value is derived using original cost. The original cost shall be the greater of the following:

(i) Taxpayer's cost for that individual aircraft reported in accordance with generally accepted accounting principles, and to the extent not included in the taxpayer's cost, transportation costs and capitalized interest and the cost of any capital addition or modification made before a transaction described in clause (ii).

(ii) The cost established in a sale/leaseback or assignment of purchase rights transaction for that individual aircraft that transfers the benefits and burdens of ownership to the lessor for United States federal income tax purposes.

If the original cost for leased aircraft cannot be determined from information reasonably available to the taxpayer, original cost may be determined by reference to the "average new prices" column of the Airliner Price Guide for that model, series, and year of manufacture of aircraft. If information is not available in the "average new prices" column for that model, series, and year, the original cost may be determined using the best indicator of original cost plus all conversion costs incurred for that aircraft. In the event of a merger, bankruptcy, or change in accounting methods by the reporting airline, there shall be a rebuttable presumption that the cost of the individual aircraft and the acquisition date reported by the acquired company if available, or the cost reported prior to the change in accounting method is the original cost and the applicable acquisition date.

(B) Original cost, plus the cost of any capital additions or modifications not otherwise included in the original cost, shall be adjusted from the date of the acquisition of the aircraft to the lien date using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner with a minimum combined factor of 25

percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to subparagraph (C), in which case the minimum value may be used. If original cost is determined by reference to the Airliner Price Guide "average new prices" column, the adjustments required by this paragraph shall be made by setting the acquisition date of the aircraft to be the date of the aircraft's manufacture.

(C) For certificated aircraft of a model and series that has been in revenue service for eight or more years, the minimum value shall not exceed the average of the used aircraft prices shown in columns other than the "average new prices" column for used aircraft of the oldest aircraft for that model and series in the Airliner Price Guide most recently published as of the lien date. Minimum values shall not be utilized for certificated aircraft of a model and series that has been in revenue service for less than eight years.

(D) For out-of-production aircraft that were recommended to be valued by a market approach for 1998 by the California Assessors' Association, assessments will be based at the lower of the following:

(i) The values established by the Association for the 1998 lien date.

(ii) The average of the used aircraft prices shown in the columns other than the "average new prices" column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(2) Notwithstanding paragraph (1), in computing assessed value, the assessor may allow for extraordinary obsolescence if supported by market evidence and the taxpayer may challenge the assessment for failure to do so. To constitute market evidence of extraordinary obsolescence and to permit an assessment appeal, the evidence must show that the functional and or economic obsolescence is in excess of 10 percent of the value for the aircraft model and series otherwise established pursuant to subparagraph (B), (C), or (D) of paragraph (1).

(3) For purposes of paragraph (1), if the Airliner Price Guide ceases to be published or the format significantly changes, a guide or adjustment agreed to by the airlines and the taxing counties shall be substituted.

(c) (1) For the 2003–04 fiscal year, certificated aircraft shall be presumed to be valued at full market value if all of the following conditions are met:

(A) Except as provided in subparagraph (D), value is derived using original cost. The original cost shall be the greater of the following:

(i) Taxpayer's cost for that individual aircraft reported in accordance with generally accepted accounting principles, and to the extent not included in the taxpayer's cost, transportation costs and capitalized interest and the cost of any capital addition or modification made before a transaction described in clause (ii).

(ii) Taxpayer's cost as established pursuant to this subdivision plus one-half of the incremental difference between taxpayer's cost and the cost established in a sale/leaseback or assignment of purchase rights transaction for individual aircraft that transfers the benefits and burdens of ownership to the lessor for United States federal income tax purposes.

If the original cost for leased aircraft cannot be determined from information reasonably available to the taxpayer, original cost may be determined by reference to the "average new prices" column of the Airliner Price Guide for that model, series, and year of manufacture of aircraft. If information is not available in the "average new prices" column for that model, series, and year, the original cost may be determined using the best indicator of original cost plus all conversion costs incurred for that aircraft. In the event of a merger, bankruptcy, or change in accounting methods by the reporting airline, there shall be a rebuttable presumption that the cost of the individual aircraft and the acquisition date reported by the acquired company if available, or the cost reported prior to the change in accounting method is the original cost and the applicable acquisition date.

(B) Original cost, plus the cost of any capital additions or modifications not otherwise included in original cost, shall be adjusted from the date of the acquisition of the aircraft to the lien date using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner with a minimum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to subparagraph (C), in which case the minimum value may be used. If original cost is determined by reference to the Airliner Price Guide "average new prices" column, the adjustments required by this paragraph shall be made by setting the acquisition date of the aircraft to be the date of the aircraft's manufacture.

(C) For certificated aircraft of a model and series that has been in revenue service for eight or more years, the minimum value shall not exceed the average of the used aircraft prices shown in columns other than the "average new prices" column for used aircraft of the oldest aircraft for that model and series in the Airliner Price Guide most recently published as of the lien date. Minimum values shall not be utilized for certificated aircraft of a model and series that has been in revenue service for less than eight years.

(D) For out-of-production aircraft that were recommended to be valued by a market approach for 1998 by the California Assessors' Association their assessments shall be based at the lower of the following:

(i) The values established by the Association for the 1998 lien date.

(ii) The average of the used aircraft prices shown in the columns other than the "average new prices" column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(2) Notwithstanding paragraph (1), in computing assessed value, the assessor may allow for extraordinary obsolescence if supported by market evidence and the taxpayer may challenge the assessment for failure to do

so. To constitute market evidence of extraordinary obsolescence and to permit an assessment appeal, the evidence must show that the functional and or economic obsolescence is in excess of 10 percent of the value for the aircraft model and series otherwise established pursuant to subparagraph (B), (C), or (D) of paragraph (1).

(3) For purposes of paragraph (1), if the Airliner Price Guide ceases to be published or the format significantly changes, a guide or adjustment agreed to by the airlines and the taxing counties shall be substituted.

(d) In order to calculate the values prescribed in subdivisions (b) and (c), the taxpayer shall, to the extent that information is reasonably available to the taxpayer, furnish the county assessor with an annual property statement that includes the aircraft original costs as defined in subparagraph (A) of paragraph (1) of subdivision (b) or (c). In the event an air carrier that has this information reasonably available to it fails to report original cost and additions, as required by Revenue and Taxation Code Sections 441 and 442, an assessor may in that case, notwithstanding any other provision in this section, make an appropriate assessment pursuant to Revenue and Taxation Code Section 501.

SEC. 3. Section 5096.3 is added to the Revenue and Taxation Code, to read:

5096.3. (a) To dispose of certain lawsuits and assessment appeals that have been filed, and to preclude the filing of other claims relating to (1) the assessment, equalization, and assessability of certain possessory interests in publicly owned airports and (2) aircraft valuation and equalization by Alaska Airlines, Inc., American Airlines, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Federal Express Corporation, Northwest Airlines, Inc., Trans World Airlines, Inc., United Airlines, Inc., United Parcel Service, U.S. Airways, Inc., Wings West Airlines, Southwest Airlines, America West Airlines, in their own right or as successors in interest, counties shall provide future tax credits in the following amounts:

Alameda	*$ 4,455,110*
Contra Costa	*1,000*
El Dorado	*1,000*
Fresno	*264,630*
Humboldt	*500*
Kern	*33,540*
Los Angeles	*18,335,720*
Monterey	*148,560*
Orange	*2,916,995*
Riverside	*435,780*
Sacramento	*1,070,185*
San Bernardino	*1,991,405*
San Diego	*4,262,610*
San Joaquin	*1,000*
San Mateo	*13,544,005*
Santa Barbara	*167,880*
Santa Clara	*2,369,080*
Solano	*1,000*

(b) The credits identified in subdivision (a) will be allowed in equal amounts for the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive, and may be credited by the counties against one or more tax bills of the airline entitled to the credit. The credits identified in subdivision (a) shall be allocated among the airlines in accordance with a schedule to be established and agreed upon by the airlines identified in subdivision (a). The airlines shall, through a designated representative, provide to each county listed in subdivision (a), before the effective date of this measure, the detail of the allocation of the credits among the various airlines. In no instance shall a county be required to provide a credit to any airline in any year that exceeds the total tax due from that airline to that county for that year. The airlines' designated representative may submit revised instructions not later than June 30 preceding the beginning of the fiscal year in which the credits are to be adjusted, but in no event may the credit for any county in any year be increased beyond the levels set out in subdivisions (a) and (b) for any fiscal year.

(c) In addition to the credits provided in subdivision (a), each county shall allow a credit against any escape assessment upon certificated aircraft levied on or after April 1, 1998, under subdivision (b) of Section 401.15 for tax years up to and including the 1997–98 fiscal year to the extent the escape assessment is based upon the cost established in sale/leaseback or assignment of purchase rights transaction. The amount of the credit shall be equal to the tax on one-half of the value increase, plus interest and penalties attributable to use of the sale/leaseback or assignment of purchase rights transaction amount to determine value pursuant to subdivision (b) of Section 401.15.

(d) Upon enrollment of any escape assessment contemplated in subdivision (a) of Section 401.15, the county assessor shall provide the county auditor with the information necessary to calculate the credit required in subdivision (c) of this section.

(e) No county shall be required to provide the credits specified in subdivisions (a) and (b) unless all airlines named in subdivision (a) who also have assessments in that county have entered into a settlement agreement or executed a waiver with that county. No county shall be required to provide the credits specified in subdivision (c) unless the airline otherwise entitled to that credit has entered into a settlement agreement or executed a waiver with that county. The settlement agreement or waiver shall include a waiver of all statutory and constitutional rights with respect to pending and future challenges to valuation and equalization of certificated aircraft through the 2003–04 fiscal year, provided that the assessments are established in conformance with Section 401.15, and all statutory and constitutional rights to challenge valuation, equalization and assessability of possessory interests in publicly owned airports (other than interests stated in a written agreement for terminal, cargo, hangar, automobile parking lots, storage and maintenance facilities, and other buildings and the land thereunder leased in whole or in part by an airline), provided that the valuations made for the 1998–99 fiscal

year and thereafter are established in conformance with Section 107.9. At the discretion of a county, the airlines may be required to file waivers in that county in lieu of entering into a settlement agreement. Upon the execution of a settlement agreement or waiver by the airlines named in subdivision (a) that also have assessments in a county, that county listed in subdivision (a) shall be required to provide the credits set out in this section. Nothing in this section precludes claims concerning allocation of aircraft values.

(f) With respect to America West Airlines only, the waiver or settlement agreement required by subdivision (e) may exclude the claims that America West Airlines has already raised in the adversary proceedings in the bankruptcy proceeding entitled "In Re America West Airlines, Inc., Case No. 91-07505 PHX-RGM" against the Counties of Orange, San Bernardino, Sacramento, San Mateo, Alameda, and San Diego, provided that the settlement agreements or waivers under subdivision (e) provide that the resolution of any of America West's adversary claims will have no legal effect for any tax year not at issue in those adversary proceedings. This section and Sections 107.9 and 401.15 do not abrogate, rescind, preclude, or otherwise affect any separate settlement agreement entered into prior to the effective date of this section between a county and an airline concerning the subject matter of this section and Sections 107.9 and 401.15 with respect to those tax years expressly settled by any agreement as so described. However, no settlement agreement as so described may be used to challenge the assessment and valuation provided by these sections for any tax year after the 1997–98 fiscal year or any tax year not expressly settled by that agreement.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique legal, fiscal, and administrative issues faced by the counties specified in this act with respect to unresolved disputes in those counties concerning the proper taxation of certificated aircraft.

SEC. 5. This act shall become operative only if Assembly Bill 2318 is enacted and becomes effective on or before January 1, 1999.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

This measure is necessary to provide guidance and clarification that is essential to the fair and efficient taxation of airline industry property and possessory interests in publicly owned airports in the current year, and to clarify the status of prior-year property tax payments that have funded essential services provided by local governments and schools.

O